

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA**

BETTY MAHANAY &
EMMETT MAHANAY

Plaintiff,

v.

MERCK & CO., INC.

Defendant

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Civil Action No.:
3:07CV233MCR/EMT

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UNOPPOSED MOTION TO STAY PROCEEDINGS

Merck & Co., Inc., with the consent of Plaintiffs, move the Court to stay all proceedings in the above captioned case, pending its transfer to *In re Fosamax Products Liability Litigation*, MDL No. 1789, the multidistrict litigation proceeding that was established in the Southern District of New York to coordinate all federal FOSAMAX® (“Fosamax”) product liability cases.

On August 16, 2006, the Judicial Panel on Multidistrict Litigation (“MDL Panel”) issued an order transferring 18 Fosamax products liability cases to the United States District Court for the Southern District of New York (Keenan, J.) for coordinated pretrial proceedings under 28 U.S.C. § 1407. *In re Fosamax Products Liability Litigation*, MDL No. 1789. As of this date, the MDL Panel has issued 30 Conditional Transfer Orders requiring the transfer of over 100 actions to MDL 1789, where a total of 242 cases are now pending, including both the transferred cases and cases filed directly in the transferee court.

On June 27, 2007, Merck provided the MDL Panel with notice of this action pursuant to the “tag-along” procedure contained in the MDL Rules. (A copy of the letter

is attached hereto as Exhibit A.) On July 23, 2007, the Panel issued conditional transfer order (“CTO”) 29 as to this action. (A copy of CTO 29 is attached hereto as Exhibit B). Because neither party will oppose transfer, and the case will likely be transferred, a stay will preserve the resources of the Court and the parties involved.

For the foregoing reasons, the parties respectfully request that the Court grant their joint motion to stay all proceedings in this action pending its transfer to MDL-1789.

Dated this 16th day of August, 2007.

Respectfully submitted,

/s/ Charles F. Beall, Jr.

Charles F. Beall, Jr.

Florida Bar No. 066494

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Attorneys for Defendant Merck & Co., Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was served by electronic filing in accordance with N.D. Fla. Loc. R. 5.1(A)(6) to Timothy M. O'Brien at toobrien@levinlaw.com this 16th day of August, 2007.

/s/ Charles F. Beall, Jr.

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